

A G. Contract No. KR03-0608TRN
ECS File: JPA 02-77
TRACS: N/A
Project: Oro Valley- Maintenance
Portion of Tangerine Rd
MP 33.93-MP 34.48

**INTERGOVERNMENTAL
AGREEMENT**

BETWEEN
THE STATE OF ARIZONA
AND
THE TOWN OF ORO VALLEY

THIS AGREEMENT is entered into 17 November, 2003 pursuant to Arizona Revised Statutes, Sections 11-951 through 11-954, as amended, between the STATE OF ARIZONA, acting by and through its DEPARTMENT OF TRANSPORTATION (the "State") and the TOWN OF ORO VALLEY acting by and through its Mayor and Town Council (the "Town").

I. RECITALS

1. The State is empowered by Arizona Revised Statutes Section 28-401 to enter into this agreement and has delegated to the undersigned the authority to execute this agreement on behalf of the State.

2. The Town is empowered by Arizona Revised Statutes Section 9-240, to enter into this agreement and has by resolution, a copy of which is attached hereto and made a part hereof, resolved to enter into this agreement and has authorized the undersigned to execute this agreement on behalf of the Town.

3. The State and the Town of Oro Valley are in mutual agreement, for the benefit of the Town, to reconstruct a section of SR 989 (Tangerine Road) MP 33.93 to MP 34.48 (Station 710+00 to 739+06) into a divided roadway with streetscape construction improvements. The Town will be responsible for 100% of the cost, hereinafter referred to as the "Project". The Town will design, construct and provide proper maintenance and operational responsibilities for the Project.

THEREFORE, in consideration of the mutual agreements expressed herein, it is agreed as follows:

NO. 26441
Filed with the Secretary of State
Date Filed: 11/17/03

Janice K. Brewer
Secretary of State

By: Timothy D. Greenwald

II. SCOPE OF WORK

1. The Town will:

- a. Apply for encroachment permits from the State, necessary for the construction of the Project.
- b. Coordinate with the State during the design and construction stage, call for bids and award one or more construction contracts for the Project Administer contracts and make all payments to the contractor(s)
- c. Upon completion of construction, provide for, at its own cost, proper routine operation and maintenance for section SR 989 (Tangerine Road) MP 33 93 to MP 34 48, using the Maintenance Activity List and Responsibility Allocations, a copy of which is attached hereto and made a part hereof, as Exhibit A. Maintenance to include, but not limited to; sweeping and removal of debris. The Town has agreed to provide lighting and energy costs, maintenance and repair to the streetscape construction improvements, including removal of graffiti.
- d. Furnish all water for landscape installation during the construction phase, a point of connection (POC) for the irrigation system, and all water thereafter necessary to properly maintain the landscape, all at the Towns expense. The Town will also provide an electrical POC to the project area for the purpose of providing power to the pedestrian lighting
- e. Conduct all maintenance work in a manner to minimize traffic congestion and interference with through traffic. All traffic control will meet the requirements of the Arizona Department of Transportation's "Uniform Traffic Control Manual"
- f. Abide by Arizona Revised Statutes Section 28-7901 through 28-7915 Article 1 Advertising Regulations on the Project area

2. The State will:

- a. Grant the necessary temporary encroachment permits, for construction of the Project and rights of entry for maintenance of Tangerine Roadway, MP 33 93 to MP 34 48 Station 710+00 to 739+06

MISCELLANEOUS PROVISIONS

1. The terms, conditions and provisions of this agreement shall remain in full force and effect until completion of said Project, except any provisions for maintenance and electrical energy shall be perpetual, unless assumed by another competent governmental entity. Further this agreement may be cancelled at any time prior to the award of the Project construction contract, upon thirty (30) days written notice to the other party. It is understood and agreed that, in the event the Town terminates this agreement the State shall in no way be obligated to maintain said Project

2. This agreement shall become effective upon filing with the Secretary of State.

3. This agreement may be cancelled in accordance with Arizona Revised Statutes Section 38-511

4. The provisions of Arizona Revised Statutes Section 35-214 are applicable to this contract

5. In the event of any controversy which may arise out of this agreement, the parties hereto agree to abide by required arbitration as is set forth for public works contracts in Arizona Revised Statutes Section 12-1518 (B) and (C).

6. All notices or demands upon any party to this agreement shall be in writing and shall be delivered in person or sent by mail addressed as follows:

Arizona Department of Transportation
Joint Project Administration
205 South 17 Avenue, Mail Drop 616E
Phoenix, AZ 85007
FAX: (602)-712-7424

Town of Oro Valley
Town Manager
11000 N. La Canada Drive
Oro Valley, AZ 85737


7. This agreement is subject to all applicable provisions of the Americans with Disabilities Act (Public Law 101-336, 42 U.S.C. 12101-12213) and all applicable federal regulations under the Act, including 28 CFR Parts 35 and 36. The parties to this agreement shall comply with Executive Order Number 99-4 issued by the Governor of the State of Arizona and incorporated herein by reference regarding "Non-Discrimination"

8. Non-Availability of Funds: Every payment obligation of the State under this contract is conditioned upon the availability of funds appropriated or allocated for the payment of such obligation. If funds are not allocated and available for the continuance of this contract, this contract may be terminated by the State at the end of the period for which the funds are available. No liability shall accrue to the State in the event this provision is exercised, and the State shall not be obligated or liable for any future payments or for any damages as a result of termination under this paragraph.

9. In accordance with Arizona Revised Statutes Section 11-952, D, attached hereto and incorporated herein is the written determination of each party's legal counsel that the parties are authorized under the laws of this State to enter into this agreement and that the agreement is in proper form.

TOWN OF ORO VALLEY


By


PAUL LOOMIS
Mayor

STATE OF ARIZONA

Department of Transportation

By


DOUGLAS A. FORSTIE, P.E.
Acting Deputy State Engineer, Operations

ATTEST

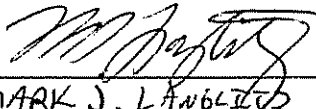
By


KATHRYN CUEVELIER
Town Clerk

APPROVAL OF THE TOWN OF ORO VALLEY ATTORNEY

I have reviewed the above referenced intergovernmental agreement between the DEPARTMENT OF TRANSPORTATION, INTERMODAL TRANSPORTATION DIVISION, and the TOWN OF ORO VALLEY, an agreement among public agencies which, has been reviewed pursuant to A.R.S. section 11-951 through 11-954 and declare this agreement to be in proper form and within the powers and authority granted to the TOWN under the laws of the State of Arizona. No opinion is expressed as to the authority of the State to enter into this agreement.

DATED this 24th day of September, 2003



MARK J. LAMBER
City Attorney

RESOLUTION NO. (R) 03-91

**A RESOLUTION OF THE TOWN OF ORO VALLEY TO
ENTER INTO AN INTERGOVERNMENTAL AGREEMENT
("IGA") WITH THE STATE OF ARIZONA, DEPARTMENT
OF TRANSPORTATION FOR RECONSTRUCTION OF AND
FOR MAINTENANCE AND OPERATIONAL
RESPONSIBILITIES OF A PORTION OF TANGERINE
ROAD BETWEEN MILE POST 33.93 AND MILE POST 34.48.**

WHEREAS, the Town of Oro Valley, pursuant to Arizona Revised Statute §11-951 *et seq.*, is authorized to enter into intergovernmental agreements for joint and cooperative action with other public entities; and

WHEREAS, the State of Arizona, Department of Transportation and the Town of Oro Valley wish to enter into an Intergovernmental Agreement to reconstruct a portion of Tangerine Road from Mile Post 33.93 to Mile Post 34.48 into a divided roadway with streetscape construction improvements; and

WHEREAS, the Town will be responsible for 100% of the cost of the reconstruction of that portion of Tangerine Road; and

WHEREAS, the Town will design, construct and provide maintenance and operational responsibilities for that portion of Tangerine Road; and

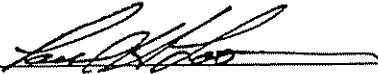
WHEREAS, it is in the best interest of the Town of Oro Valley to enter into an Intergovernmental Agreement, attached hereto as Exhibit "A", with the State of Arizona, Department of Transportation and that Mayor and Council of the Town of Oro Valley is authorized to approve such Agreement.

THEREFORE, BE IT RESOLVED, BY THE MAYOR AND THE TOWN COUNCIL OF THE TOWN OF ORO VALLEY, ARIZONA:

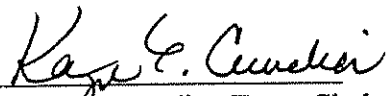
1. That the Mayor and other appropriate administrative officials of the Town of Oro Valley are hereby authorized to take such steps as are necessary to execute and implement the terms of the Intergovernmental Agreement.

PASSED AND ADOPTED by the Mayor and Town Council of the Town of Oro Valley, Arizona this 15th day of October, 2003.

TOWN OF ORO VALLEY, ARIZONA


Paul H. Loomis, Mayor

ATTEST:


Kathryn E. Cuvelier, Town Clerk

10-16-03
Date

APPROVED AS TO FORM:


Mark Langlitz, Town Attorney

10/17/03
Date



OFFICE OF THE ATTORNEY GENERAL
STATE OF ARIZONA

TERRY GODDARD
ATTORNEY GENERAL

CIVIL DIVISION
TRANSPORTATION SECTION
WRITER'S DIRECT LINE 602.542.8859

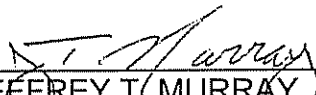
INTERGOVERNMENTAL AGREEMENT
DETERMINATION

A.G. Contract No. KR03-0608TRN (**JPA 02-77**), an Agreement between public agencies, has been reviewed pursuant to A.R.S. § 11-952, as amended, by the Undersigned Assistant Attorney General who has determined that it is in the proper form and is within the powers and authority granted to the State of Arizona.

No opinion is expressed as to the authority of the remaining Parties, other than the State or its agencies, to enter into said Agreement.

DATED November 10, 2003.

TERRY GODDARD
Attorney General



JEFFREY T. MURRAY
Assistant Attorney General
Transportation Section

/ss

att.